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2 UNITED STATES DISTRICT COURT
3 DISTRICT OF NEVADA

4 Thomas R. Layton,

5 Plaintiff

6 v.

7 Specialized Loan Servicing, LLC,

8 Defendant

Case No.: 2:20-cv-01225-CDS-EJY

**Order Granting Defendant's Motion to
Strike, and Denying Defendant's Motion for
an Order to Show Cause**

[ECF Nos. 122, 124, 125]

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10 Pending before the court is a stipulation for extension of time to file a stipulated
11 dismissal that was filed on October 11, 2024. ECF No. 122. The day before the stipulation was
12 filed, defendant Specialized Loan Servicing, LLC ("SLS") filed a status report. ECF No. 121.
13 Therein, SLS summarizes its attempts to finalize the settlement agreement within the court-
14 ordered deadline of October 10, 2024. *See generally id.* According to SLS, although the parties have
15 reached an agreement, plaintiff Thomas Layton has not signed the settlement agreement, and
16 has not stated whether he ever intends to do so. *Id.* at 2. SLS also advised that it learned for the
17 first time on October 10, 2024, that Layton was working with an attorney who has not made an
18 appearance in this action. *Id.* SLS, concerned about not violating the Nevada Rules of
19 Professional Conduct (NRPC), asked Layton to identify his attorney. *Id.* Layton advised that he
20 was merely "consulting with counsel," and declined to disclose the attorney's identity. *Id.* SLS
21 now asks that the court to either (1) set a status hearing regarding settlement or (2) compel
22 Layton to disclose the identity of his "consulting" attorney so it can ensure compliance with its
23 ethical obligations. *Id.* at 3.

24 On October 11, 2024, Layton filed his own status report. ECF No. 123. Therein, Layton
25 provided additional information regarding the parties' exchanges about the settlement
26 agreement over the past two months. *See generally id.* Layton also expressed dismay with SLS's

1 October 10, 2024, status report, claiming that the report disparages him, and that the actions of
2 SLS's attorney are "unconscionable and contrary to the Code of Professional Conduct for an
3 attorney" *Id.* at 3. Having reviewed SLS's status report, I disagree. NRCP 4.2 prohibits a lawyer
4 from communicating with a person they know to be represented by another attorney, without
5 consent of the other lawyer or authorization to do so by law or a court order. Nev. R. Prof. Cond.
6 4.2. Once Layton advised SLS that he had an attorney, SLS was obligated to communicate with
7 Layton's counsel. There is nothing unprofessional about that communication or request.
8 Further, the court disagrees that Layton was disparaged therein.

9 When Layton filed his status report, he also filed a joint stipulation for an extension of
10 time. ECF No. 122. The docket reflects that the stipulation was filed by SLS, but SLS filed a
11 motion to strike the stipulation because Layton—not SLS—filed the stipulation. *See* ECF No.
12 124. Although that stipulation contains SLS's e-signature, Layton did not have permission to file
13 it given the questions surrounding Layton's pro se status, and his refusal to sign the settlement
14 paperwork or indicate whether he would sign the paperwork. Because the status of the
15 settlement, as well as Layton's pro se status, is now in question, together with the fact that
16 Layton filed the stipulation without SLS's approval, the court grants SLS's motion to strike the
17 October 11, 2024, stipulation. Layton is both admonished and cautioned that filing documents
18 without the consent of the opposing party is unacceptable, may constitute a fraud upon the
19 court, and if done again, may result in the issuance of sanctions.

20 SLS also seeks a show-cause order against Layton under Federal Rule of Civil Procedure
21 11 for filing the October 11, 2024, stipulation without their permission and for making
22 misrepresentations to the court regarding the status of the settlement. ECF No. 125. The court
23 denies the motion without prejudice. This order cautions and admonishes Layton about the
24 conduct that gives rise to SLS's show cause motion. I therefore find sanctions are not warranted
25 at this time.
26

1 Because Layton's pro se status is now in question, he is ordered to notify the court of his
2 intent to continue to represent himself or if he has retained counsel. If Layton is represented, his
3 attorney must file a notice of appearance no later than October 22, 2024. Failure to comply by
4 that date may result in the imposition of sanctions.

5 Finally, because the status of the settlement is unclear, the parties are ordered to appear
6 before Magistrate Judge Elayna J. Youchah for a status conference. Judge Youchah will issue a
7 separate order setting the date, time, and location of the hearing.

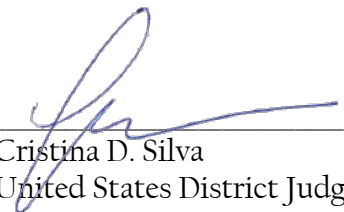
8 **Conclusion**

9 IT IS THEREFORE ORDERED that SLS's motion to strike [ECF No. 124] is
10 GRANTED. The stipulation filed at ECF No. 122 is STRICKEN.

11 IT IS FURTHER ORDERED that SLS's motion for an order to show cause [ECF No.
12 125] is DENIED without prejudice.

13 IT IS FURTHER ORDERED that the parties must appear for a status conference before
14 Judge Youchah.

15 Dated: October 16, 2024

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17 Cristina D. Silva
18 United States District Judge
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